

WISHA Interim Operations Memorandum
Washington Department of Labor and Industries
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INSPECTION PROCEDURES UNIQUE TO EXPLOSIVES INSPECTIONS

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Background

Title 70.74 RCW, the Explosives Act, is a public safety law that requires, among other things, regular “certification” inspections of licensed explosives storage sites. Because of the unique characteristics of the Explosives Act, several standard inspection procedures described in the WISHA Compliance Manual do not apply. Other necessary and unique explosives inspection procedures are simply not addressed by the existing guidance.

This interim memo provides regional managers, safety compliance supervisors and explosives inspectors appropriate guidance regarding inspection procedures unique to enforcement of the Explosives Act.

Policy

1. *Should WISHA explosives inspectors be involved in the seizure of explosives?*

Under certain circumstances, WISHA explosives inspectors must arrange for the seizure of explosives. In cases where explosive material is illegally stored and compliance with the requirements of Chapter 296-52 WAC cannot be obtained, explosives inspectors must coordinate the seizure of the explosives with local law enforcement agencies or the Washington State Patrol Bomb Squad.

Explosives inspectors must not, under any circumstances, seize, transport or store explosive material.

Note: If necessary, the regional explosives inspector and/or supervisor may contact the Explosives Specialist in WISHA P&TS to assist with coordination of such seizures.

2. *How should a WISHA explosives inspector address the need to inspect a private residence?*

When information is received that illegal explosive storage or manufacturing may exist at a private residence, a warrant must be obtained by local law enforcement. The entry must be made by local law enforcement officers and explosive inspectors must not enter the scene until local law enforcement officers have the scene under control and indicate that entry is safe.

Any documentation obtained by law enforcement officers prior to the inspector’s arrival and necessary to the inspection must be obtained by the inspector from the law enforcement agency.

Note: The WISHA explosives inspector and/or supervisor may request the assistance of the Office of the Attorney General or the Explosives Specialist in WISHA P&TS in working with local law enforcement to obtain a warrant.

3. *How should WISHA explosives inspectors handle requests for consultative and technical advice related to the Explosives Act?*

Explosives inspectors are expected to assist the explosives industry by providing consultative and technical advice. If requests for assistance require a significant commitment of time or resources, explosives inspectors should seek guidance from their supervisors regarding the appropriate balance between such efforts and their inspection activities. If requests for assistance cannot be met, they should be forwarded to the Explosives Specialist in WISHA P&TS. All technical advice and interpretive guidance must be coordinated with the Explosives Specialist in WISHA P&TS as necessary to ensure statewide consistency.

4. *Should WISHA explosives inspectors issue citations to persons who are also charged or likely to be charged with felony misuse of explosive material?*

Yes, WISHA explosives inspectors are expected to issue citations for all documented violations of Chapter 296-52 WAC. However, investigations involving potential felony charges must be closely coordinated with local law enforcement in order to avoid compromising the potential criminal charges. Whenever criminal charges are a likely outcome of explosives enforcement activity, the WISHA explosives inspector is expected to notify his or her supervisor and the Explosives Specialist in WISHA P&TS.

5. *Should inspectors conduct inspections of inactive magazines?*

All magazines containing explosive material are considered active magazines. Explosives inspectors are expected to conduct inspections of “inactive” and other unlicensed magazines whenever evidence indicates that such a magazine is being used to store explosive material.

6. *How should inspectors handle recommendations to suspend or revoke a license issued pursuant to Title 70.74?*

When an investigation suggests that suspension or revocation of an explosives license may be appropriate, the region’s recommendation and all related documentation must be provided to the Explosive Specialist in WISHA P&TS as quickly as possible to enable a rapid decision regarding the recommendation and appropriate notice to the licensee.

7. *How should explosives inspectors address employer/employee relationship at sites where explosives are being used?*

When inspections other than magazine licensing reviews are conducted at work sites where explosives are being used and an employee/employer relationship exists, the inspector is expected to handle the inspection in accordance with all applicable procedures outlined in the WISHA Compliance Manual.

In addition, the explosives inspector is expected to request the blaster in charge to produce a valid user license, ascertain the level of expertise required, and determine that the license is adequate to the situation. When violations of Chapter 296-52 WAC exist that are under the control of the blaster in charge, the blaster must be cited under Title 70.74 RCW. The employer must also be cited as appropriate under Title 49.17 RCW.

8. *How should inspections resulting from media inquiries, as well as other high-profile inspections, be handled?*

All citations resulting from investigations involving media inquiries or other high profile situations must be reviewed by the Explosives Specialist in WISHA P&TS before they are issued. The region may also ask for advice and assistance from the Explosives Specialist in WISHA P&TS when conducting inspections that may generate exceptional interest or that raise unique interpretive issues.